

SUPPORT FOR THE AMENDMENTS

Claims 1-37 were previously canceled.

Claims 38, 39, 43, and 51 have been amended.

The amendment to Claims 38, 39, 43, and 51 is supported by the definition of “C₂₋₁₄ aryl group” at page 16, line 22 to page 19, line 27 (see, in particular, page 17, lines 18-19).

No new matter is believed to have been added by the present amendments.

REMARKS

Claims 38-74 are pending in the present application.

At the outset, Applicants would like to thank Examiner Loewe for the recognition and acknowledgment that the species of synthetic example 56 is allowable (see numbered paragraph 10 on page 4 of the Office Action mailed June 23, 2008). Reconsideration of the outstanding rejections is requested in view of the amendment and remarks set forth herein.

The rejection of Claims 38, 39, 55, 56, and 72-74 under 35 U.S.C. §112, first paragraph (written description), is respectfully traversed.

In the response filed on May 23, 2008, Applicants amended the specification and Claims 38, 43, 49-51, and 54 to correct an incorrect descriptions resulting in the use of the terms “carbamido” and “sulfamido”. The incorrect description was that “carbamido” was erroneously used for the expression “C(O)NH₂” (see compound Q3t on page 56); however, “carbamido” is not the proper term. The proper term for the expression “C(O)NH₂” is “carbamoyl”. Similarly, in the specification, the incorrect description “sulfamido” was used for the expression “SO₂NH₂” (see compound Q3r on page 56); however, “sulfamido” is not the proper term. The proper term for the expression “SO₂NH₂” is “sulfamoyl”.

In the outstanding Office Action, the Examiner has objected to the amendments to the specification and claims to replace “carbamido” with “carbamoyl” and to replace “sulfamido” with “sulfamoyl” as being new matter. Specifically, the Examiner states that carbamido and sulfamido are not art recognized as being equivalent to carbamoyl and sulfamoyl, respectively. Further, the Examiner notes that the two species relied upon (e.g., Q3t and Q3r) do not support the broad genus.

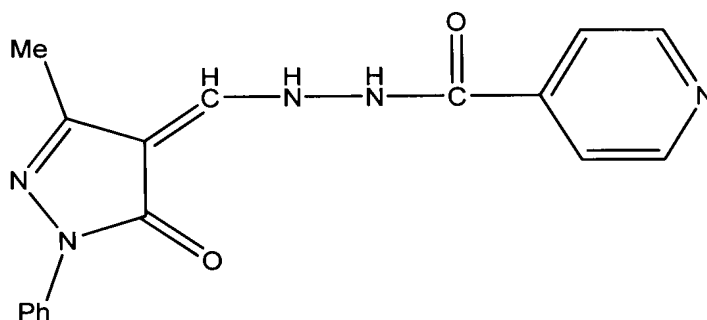
Applicants respectfully submit that the foregoing assertions by the Examiner miss the point of the correction. The amendments to the specification and claims in the response filed May 23, 2008, was not intended to be a replacement between equivalents, but rather was a *correction* of an inaccurate naming in the original specification. Compounds Q3t and Q3r provide evidence that “carbamido” and “sulfamido” were incorrect names and that “carbamoyl” and “sulfamoyl” should have been used.

An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of the error in the specification, but also recognize the appropriate correction. *In re Oda*, 443 F.2d 1200, 170 USPQ 268 (CCPA 1971). Applicants respectfully submit that it is apparent from compounds Q3t and Q3r that the skilled artisan would appreciate that “carbamido” and “sulfamido” were incorrect names and that the proper solution to this problem is the use of the terms “carbamoyl” and “sulfamoyl”.

In view of the foregoing, Applicants request withdrawal of this ground of rejection.

The rejection of Claims 38, 51, 55, and 68 under 35 U.S.C. §102(b) over Pain et al is obviated by amendment.

The Examiner now has rejected the claims as being anticipated by Pain et al, which discloses the following compound:



The Examiner's allegation is that this compound is within the scope of the claims where the position corresponding to A is a phenyl, B is a methyl, D is a hydrogen, and E is a pyrinidyl (equivalent term "pyridyl").

Applicants have amended Claims 38, 39, 43, and 51 to add an exclusionary proviso to the definition of substituents E, R⁴, R¹⁰, and R¹⁵ to specifically exclude "pyridyl" from the scope thereof. With respect to the exclusionary proviso, Applicants submit that "Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) ("[the] specification, having described the whole, necessarily described the part remaining.")." (MPEP §2173.05(i)) Since "pyridyl" is positively recited as an option for substituents E, R⁴, R¹⁰, and R¹⁵ at page 17, lines 18-19, the exclusionary proviso finds support in the present specification.

As Pain et al does not disclose a compound within the scope of the claimed invention, Applicants submit that by the compound disclosed by Pain et al fails to anticipate the presently claimed invention and/or render the presently claimed invention obvious.

Withdrawal of this ground of rejection is requested.

Applicants respectfully submit that the above-identified application is now in condition for allowance. Early notification to this effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

A handwritten signature in black ink, appearing to read 'V. K. Shier', written over a horizontal line.

Vincent K. Shier, Ph.D.
Registration No. 50,552

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/03)